



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY
Bureau of Alcohol, Tobacco and Firearms
Washington, D. C. 20226
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QUESTIONS AND ANSWERS REGARDING THE GOVERNMENT WARNING STATEMENT

Proprietors of Distilled Spirits Plants, Bonded Wineries,
Breweries, Importers And Others Concerned:

Purpose: The purpose of this circular is to address a number of questions which have arisen concerning the Government Warning statement.

Background: In accordance with the provisions of the Alcoholic Beverage Labeling Act (ABLA) of 1988, Pub. L. No. 100-690, the Bureau of Alcohol, Tobacco and Firearms (ATF) published in the Federal Register on February 16, 1989, a temporary rule (T.D. ATF-282, 54 FR 7160) requiring that the Government warning statement appear on all containers of alcoholic beverages bottled on and after November 18, 1989, for sale or distribution in the United States. On February 14, 1990, ATF published the final rule implementing the ABLA (T.D. ATF-294, 55 FR 5415). The final rule requirements, which become effective and mandatory on November 14, 1990, for alcoholic beverages bottled on or after that date, supersede the requirements of the temporary rule.

Question 1 Is the Government warning statement required on containers of alcoholic beverages?

Answer 1 The term "alcoholic beverage," as defined by law, includes any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption. Therefore, the Government warning statement is required on distilled spirits products, malt beverages and wine products containing .5% or more alcohol by volume.

Question 2 How does the bottling date affect the Government warning statement?

Answer 2 Bottling date determines whether the Government warning statement is required and, if required, whether the statement must comply with T.D. ATF-282 or T.D. ATF-294.

1. Alcoholic beverages bottled before November 18, 1989 are not required to bear the Government warning statement.

2. Alcoholic beverages bottled on or after November 18, 1989 but before November 14, 1990 must bear the Government warning statement in compliance with T.D. ATF-282 or T.D. ATF-294.

3. Alcoholic beverages bottled on or after November 14, 1990 must bear the Government warning statement in compliance with T.D. ATF-294.

Question 3 Are the type size requirements for each letter of the Government warning statement different under the final rule (T.D. ATF-294) as opposed to the temporary rule (T.D. ATF-282)?

Answer 3 The temporary regulations specified a minimum type size of one millimeter for containers having a capacity of 237 milliliters (8 fl. oz.) or less. A minimum type size of two millimeters was specified for all other containers. The final regulations have added a third type size for larger containers. Specifically, T.D. ATF-294 specifies type size requirements as follows:

<u>Container Size</u>	<u>Minimum Type Size Requirement</u>
Over 3 liters (101 fl. oz.)	3mm
Over 237 ml (8 fl. oz.) To 3 Liters (101 fl. oz.)	2mm
237 ml or less	1mm

Question 4 What is the maximum characters-per-inch requirement as specified in the final rule?

Answer 4	Minimum Type Size <u>Requirement</u>	Maximum Characters <u>Per Inch</u>
	1mm	40
	2mm	25
	3mm	12

Question 5 What are characters?

Answer 5 "Characters" are letters, numbers, and marks. "Characters" include commas, periods, colons and parentheses. Spaces are excluded when counting the number of characters per inch.

Question 6 Must the words "GOVERNMENT WARNING" be differentiated from the rest of the statement?

Answer 6 Yes. Under the temporary regulations these words must be differentiated in some manner from the rest of the statement. Under the final rule (T.D. ATF-294), all the letters in "GOVERNMENT WARNING" must be capitalized and the two words must appear in bold print. The remainder of the statement may not appear in bold print. Underlining and/or italicizing "GOVERNMENT WARNING" is acceptable in addition to, but not in lieu of, capitalizing all the letters in the two words and using bold print.

Question 7 What is the required format of the Government warning statement?

Answer 7 Except for the words "GOVERNMENT WARNING," the statement must appear as a continuous paragraph. Items (1) and (2) of the Government warning statement may not appear as separate paragraphs.

Question 8 Can the words "GOVERNMENT WARNING" appear on a separate line?

Answer 8 Yes, provided items (1) and (2) of the Government warning statement appear as a continuous paragraph.

- Question 9 If the alcoholic beverage is sold only in intrastate commerce, must the Government warning statement be affixed to the container?
- Answer 9 Yes. The Government warning statement requirement applies both to interstate and intrastate sale and distribution of alcoholic beverages.
- Question 10 Must altar wine bear the Government warning statement?
- Answer 10 Yes. Any alcoholic beverage for sale or distribution to members of the consuming public must be labeled with the Government warning statement.
- Question 11 Must samples for consumer taste testing bear the Government warning statement?
- Answer 11 Yes. The Government warning statement is required on any alcoholic beverages for sale or distribution to the consumer. Sale and distribution include, by law, samples or other distribution not for sale.
- Question 12 Are distinctive liquor bottles exempt from Government warning labeling requirements?
- Answer 12 No. Any container, distinctive or otherwise, in which alcoholic beverages for sale or distribution to consumers are bottled must be labeled with the Government warning statement.
- Question 13 Must kegs be labeled with the Government warning statement?
- Answer 13 Yes. The Government warning statement is required on kegs.
- Question 14 Is the Government warning statement required on sparkling wine corked and sealed on or after November 18, 1989?

- Answer 14 Yes. Sparkling wine is not considered "bottled" until the final cork and seal are in place. Therefore, regardless of when secondary fermentation took place, if the final cork and seal were not in place before November 18, 1989, the Government warning statement is required to appear on the container.
- Question 15 Must a new label application be submitted to add only the Government warning statement?
- Answer 15 No. However, resubmission is recommended to insure compliance with all requirements.
- Question 16 Should the bottling date be indicated on the label application?
- Answer 16 Yes. Indicate the bottling date in Item 12 of ATF Form 5100.31 (Application for and Certification of Label/Bottle Approval). For example, "Bottling date - before 11/18/89;" "Bottling date - after 11/18/89, before 11/14/90." Documentation should be available if requested by ATF Inspectors, Customs Officers, etc., to support the bottling date claim.
- Question 17 Can I continue to submit for approval labels that have been reduced in size?
- Answer 17 Yes. However, when a reduced label is submitted, indicate in Item 12 of ATF Form 5100.31 that the label has been reduced. In addition to noting in Item 12 that the label has been reduced, submit along with the label application the actual (unreduced) label.
- Question 18 Can I submit for approval one label covering different sizes (e.g., " fl. oz., 12 fl. oz., 16 fl. oz.)?
- Answer 18 Although submission is not required for each size container, to insure compliance, the Bureau recommends submission of separate applications for containers of 237 ml or less, containers of over 237 ml to 3 liters and containers of over 3 liters. The container size should be indicated in Item 12 of ATF Form 5100.31.

Question 19 Can I continue to submit on ATF Form 5100.31 photocopies and printers proofs of labels bearing the Government warning statement?

Answer 19 Yes, but the Bureau recommends, and in some cases may require, submission of labels in final printed form.

Question 20 Will my label application be approved if the Government warning statement appears typed on a strip label?

Answer 20 The label application will be approved with the understanding that the Government warning statement will appear on the container exactly as it had been approved on the label certificate (i.e., typed on a strip label).

Question 21 Do all certificates of label approval that do not comply with T.D. ATF-294 automatically expire November 14, 1990?

Answer 21 No. Only certificates that are qualified with a termination date automatically expire (as of the date shown on the certificate).

Question 22 Wine was imported into the U.S. after November 18, 1989 but was bottled in the foreign country prior to November 18, 1989, and does not bear the Government warning statement. What documentation may be used to substantiate the bottling date?

Answer 22 If the bill of lading is dated prior to November 18, 1989, no further documentation is required. If the bill is dated November 18, 1989, or later, Customs will accept verification of the bottling date from one of the following: a foreign government, the foreign bottler or supplier, the importer, or the Customs broker. Certification by the foreign bottler or supplier may be on a bill of lading, invoice or other commercial document, or on letterhead. Certification by the importer or broker may indicate that verification is being made upon the advice of the foreign bottler or supplier and should

read substantially as follows: "I have been advised by the foreign supplier that the products covered by this entry were bottled prior to November 18, 1989."

Question 23 Wine to be imported into the U.S. after November 14, 1990, was bottled in the foreign country after November 18, 1989, but prior to November 14, 1990, and contains a Government warning statement that complies with the temporary regulations but not with the final rule. What documentation may be used to substantiate the bottling date?

Answer 23 If the bill of lading is dated prior to November 14, 1990, no further documentation is required. If the bill of lading is dated November 14, 1990 or later, Customs will accept the documentation referred to in Answer 22.

Question 24 What is the penalty for violating the Government warning requirement?

Answer 24 Violation of the ABLA and the implementing regulations subjects the manufacturer, bottler, or importer to a civil penalty of up to \$10,000 per day, for each day that alcoholic beverages are manufactured, bottled, or imported for sale or distribution in the United States without the Government warning statement.

ATF would remind industry members that basic permits under the Federal Alcohol Administration Act are conditioned upon compliance with the provisions of the ABLA.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226. For telephone inquiries, call (202) 789-3150.


Director